

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

United States District Court  
Southern District of Texas  
FILED

AUG 18 2011

David J. Bradley, Clerk of Court

ROLANDO SERNA,

Plaintiff,

v.

Case No. \_\_\_\_\_

LAW OFFICE OF JOSEPH ONWUTEAKA, PC,  
JOSEPH O. ONWUTEAKA, Individually  
and SAMARA PORTFOLIO  
MANAGEMENT, LLC

Defendants

**11-3034**

**ORIGINAL COMPLAINT**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW Rolando Serna, Plaintiff in the above-numbered and styled proceeding, complaining of and against Defendants Law Office of Joseph Onwuteaka, PC, Joseph O. Onwuteaka, and Samara Portfolio Management, LLC, and for causes of action would respectfully state the following:

**I. Introduction**

1. This action seeks redress for unlawful debt collection practices in violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq (hereinafter "FDCPA"), and the Texas Deceptive Trade Practices Act, Tex. Bus. & Com. Code § 17.41 et seq. (hereinafter "DTPA"). Specifically, Plaintiff alleges that Law Offices of Joseph Onwuteaka, PC, and Joseph O. Onwuteaka filed an action to collect upon a consumer debt in a distant forum in violation of 15 U.S.C. § 1692i, and that Defendant Samara Portfolio Management, LLC is similarly liable for distant forum abuse under Tex. Bus. & Com. Code § 17.46(b)(23).

## **II. Jurisdiction and Venue**

2. This Court has subject matter jurisdiction under 15 U.S.C. § 1692k(d) and 28 U.S.C. §§ 1337 and 1367. Venue in this district is proper under 28 U.S.C. § 1391(b), because a substantial part of the events or omissions giving rise to the claims took place in this District.

## **III. Parties**

3. Plaintiff Rolando Serna is an individual who resides in San Antonio, Bexar County, Texas.

4. Defendant Law Office of Joseph Onwuteaka, PC is a domestic professional corporation, and it may be served through its registered agent, Joseph Onwuteaka, at 7324 Southwest Fwy Ste 310, Houston, Texas 77074.

5. Defendant Joseph O. Onwuteaka is an individual, an attorney licensed to practice law in the State of Texas, and a principal of the Law Office of Joseph Onwuteaka, PC. He may be served with process at 7324 Southwest Fwy Ste 310, Houston, Texas 77074.

6. Defendants Law Office of Joseph Onwuteaka, PC and Joseph O. Onwuteaka are engaged in the collection of debts using the mail and the telephone. These Defendants regularly attempt to collect consumer debts alleged to be due to another and are "debt collectors" as defined by the FDCPA, 15 U.S.C. § 1692a(6).

7. Defendant Samara Portfolio Management, LLC is a domestic limited liability company with authority to do business in Texas. It may be served through its registered agent Joseph Onwuteaka, at 203 Kirkwood Court, Sugarland, Texas 77478.

## **IV. Facts**

7. On June 22, 2008, Mr. Serna, entered into a promissory note for a loan

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contract with First Bank of Delaware primarily for personal, family or household purposes in Bexar County, Texas, and he has resided in Bexar County or Webb County since entering into the loan contract.

8. On July 6, 2010, Defendants Law Office of Joseph Onwuteaka, PC and Joseph O. Onwuteaka filed a lawsuit against Mr. Serna in Harris County Justice of the Peace Court, on behalf of Samara Portfolio Management, LLC (hereinafter "Samara"), seeking to recover a judgment for unpaid debt under the aforementioned loan contract, and requested issuance of citation for service in San Antonio, Bexar County, Texas. On July 6, 2010, the date the underlying suit was filed, Mr. Serna was residing in San Antonio, Bexar County, Texas. On or about August 14, 2010, Mr. Serna was served with process in San Antonio, Bexar County, Texas. Thereafter, Mr. Serna made no appearance. A default judgment for \$2600.00 in damages, \$1500.00 in attorney's fees, and \$34.00 in court costs was entered against him on December 9, 2010.

**V. CLAIM FOR RELIEF UNDER FAIR DEBT COLLECTION PRACTICES ACT**

9. Plaintiff incorporates paragraphs 1-8 above.

10. Defendants Law Office of Joseph Onwuteaka, PC and Joseph O. Onwuteaka are "debt collectors" as that term is defined in 15 U.S.C. § 1692a(6) and violated the FDCPA by filing suit to collect on a consumer debt in a distant forum in violation of 15 U.S.C. § 1692i(a)(2).

11. As a result of this violation of the FDCPA, Defendants are liable to the Plaintiff for a declaratory judgment that Defendants' conduct violated the FDCPA, actual damages, statutory damages, and costs and attorney's fees.

**VI. CLAIM FOR RELIEF UNDER TEXAS DECEPTIVE TRADE PRACTICES ACT**

12. Plaintiff incorporates paragraphs 1-8 above.

13. Defendant Samara violated the DTPA by filing suit to collect on a consumer debt in a distant forum in violation of Tex. Bus. & Com. Code § 17.46(b)(23).

14. As a result of this violation of the DTPA, Defendant Samara is liable to the Plaintiff for a declaratory judgment that Defendant Samara's conduct violated the DTPA, injunctive relief, restoration of money, and costs and attorney's fees.

WHEREFORE, Plaintiff prays that the Court grant the following relief on her behalf against Defendants:

- a. Declaratory judgment that the conduct of Law Office of Joseph Onwuteaka, PC and Joseph O. Onwuteaka violated the FDCPA and the conduct of Defendant Samara violated the DTPA;
- b. Injunctive relief against Defendant Samara to restrain violations of the DTPA under Tex. Bus. & Com. Code § 17.50(b)(2);
- c. Restoration of money or property under Tex. Bus. & Com. Code § 17.50(b)(3);
- d. Other relief which the Court deems proper under Tex. Bus. & Com. Code § 17.50(b)(4), including an order declaring the default judgment void and/or unenforceable;
- e. Statutory damages, as provided for in 15 U.S.C. § 1692k(a)(2);
- f. Actual damages, as provided for in 15 U.S.C. § 1692k(a)(1);
- g. Attorney's fees, litigation expenses and costs, as provided in 15 U.S.C. § 1692k(a)(3) and Tex. Bus. & Com. Code § 17.50(d); and
- h. Such other and further relief as the Court deems appropriate.

Respectfully submitted,

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